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In the present Office Action, claims 1-16 were examined. Claims 1-16 are rejected.

By this Amendment, claims 1, 5, 14, and 16 have been amended, claim 13 has been canceled, and claims 17-21 have been added. Accordingly, claims 1-12, and 14-21 are presented for further examination. No new matter has been added. By this Amendment, claims 1-12, and 14-21 are believed to be in condition for allowance.

Also by this Amendment, the Abstract of the Disclosure has been amended in response to an Examiner's objection.

Explanation of Above Amendments

Claim 1 has been amended to overcome the Examiner's rejections of this claim by further defining that the linking members extend between the upper and lower barrier members other than parallel to the median when the device is in the deployed condition. Support for this amendment is found in FIG. 1 and in the specification paragraph beginning on page 4, line 26.

Claim 5 has been amended to replace the word "net" with the word "device", which finds proper antecedent basis in claim 1.

Claim 14 has been amended to place the claim in independent form by including limitations found in cancelled claim 13. In addition, claim 14 has been amended to overcome the Examiner's rejections by further defining that the linking members are angled relative to the median when the device is in the deployed condition. Support for this amendment is found in FIG. 1 and in the specification paragraph beginning on page 4, line 26.

Claim 16, which previously depended from cancelled claim 13, has been amended to depend from claim 14.

Claims 17-21 are newly added and find support in FIG. 1 and in the specification paragraph beginning on page 4, line 26.

The Abstract of the Disclosure has been amended to provide the nature and gist of the technical disclosure. Support for this amendment is found in the as-filed specification and claims, particularly claim 1 and the specification paragraph beginning on page 4, line 26.

Objection to the Abstract of the Disclosure

The Examiner has objected to the Abstract of the Disclosure because it allegedly refers to the purported merits of the invention. Applicants have amended the Abstract of the Disclosure to provide the nature and gist of the technical disclosure. Accordingly, reconsideration and withdrawal of this objection are respectfully requested.

Rejections under 35 USC §102

The Examiner rejected claims 1-16 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 2,465,936 to Schultz ("Schultz"). More specifically, the Examiner alleges that Schultz discloses a device comprising support members (18); a flexible barrier (15) extending at least partially therebetween; upper and lower barrier members (16); and a plurality of linking members (Figure 6, for example). In addition, the Examiner rejected claims 1-16 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 2,440,574 to Cotton ("Cotton"). More specifically, the Examiner alleges that Cotton discloses a device comprising support members (38, 39); a flexible barrier (a) extending at least partially therebetween; upper and lower barrier members (10, 17); and a plurality of linking members (Figure 1, for example). Applicants respectfully traverse this rejection for the following reasons.

Neither Schultz nor Cotton teach a device wherein "linking members extend between the upper and lower barrier members other than parallel to the median when the device is in the deployed condition and leave one or more large gaps in the barrier effective so that a vehicle tire overriding the lower barrier member and any lower portion of any linking member

will encounter such a gap and, thereby be unable to draw the barrier beneath the vehicle to drive over the barrier”, as recited in Applicants’ amended claim 1 (emphasis added). Similarly, neither Schultz nor Cotton teach a device wherein “the linking members are angled relative to a median of the barrier when the device is in a deployed condition so that, upon engagement of a tire of the target vehicle with such a linking member, the tire will not be able to ride along such linking member to the upper member when the vehicle normally impacts the barrier”, as recited in Applicants; amended claim 14 (emphasis added). To the contrary of both claims 1 and 14, Schultz and Cotton teach a device wherein the alleged linking members are all parallel to the median of the barrier when these devices are in the deployed condition (i.e., prior to vehicle impact). As can be seen in FIG. 6 of Schultz, for example, each of the alleged linking members, which extend between horizontal plies 47 and 48, are all parallel to each other and to the median of the barrier that they form. As can be seen in FIG. 1 of Cotton, for example, each of the alleged linking members, which extend between cables 10 and 17, are all parallel to each other and to the median of the net-like body “A”.

Moreover, because the alleged linking members of Schultz and Cotton are parallel to the median of the barrier, the devices of Schultz and Cotton do not “leave one or more large gaps in the barrier effective so that a vehicle tire overriding the lower barrier member and any lower portion of any linking member will encounter such a gap and, thereby be unable to draw the barrier beneath the vehicle to drive over the barrier” as recited in Applicants’ claim 1 (emphasis added). Nor do they provide a device wherein, “upon engagement of a tire of the target vehicle with such a linking member, the tire will not be able to ride along such linking member to the upper member when the vehicle normally impacts the barrier”, as recited in Applicants’ amended claim 14. Instead, because the alleged linking members of Schultz and Cotton are parallel to the median of their respective barriers, a tire overriding the lower portion of the linking member would draw the barrier beneath the vehicle. As described in Applicants’ specification (page 7, paragraph beginning on line 9), the slope of the linking members prevents a tire from riding up the member and drawing the barrier entirely beneath the vehicle.

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Because neither Schultz nor Cotton teach a device wherein "linking members extend between the upper and lower barrier members other than parallel to the median when the device is in the deployed condition and leave one or more large gaps in the barrier effective so that a vehicle tire overriding the lower barrier member and any lower portion of any linking member will encounter such a gap and, thereby be unable to draw the barrier beneath the vehicle to drive over the barrier", Applicants' claim 1, and claims 2-12 that variably depend therefrom, are allowable over both Schultz and Cotton. Accordingly, for at least this reason, Applicants respectfully request that the Examiner's rejection of claims 1-12 be reconsidered and withdrawn.

Similarly, because neither Schultz nor Cotton teach a device wherein "the linking members are angled relative to a median of the barrier when the device is in a deployed condition so that, upon engagement of a tire of the target vehicle with such a linking member, the tire will not be able to ride along such linking member to the upper member when the vehicle normally impacts the barrier", Applicants' claim 14, and claims 15-16 that variably depend therefrom, are allowable over both Schultz and Cotton. Accordingly, for at least this reason, Applicants respectfully request that the Examiner's rejection of claims 14-16 be reconsidered and withdrawn.

Regarding claim 2 individually, neither Schultz nor Cotton teach a device "wherein each of said linking members ... extend outward from the median from the lower barrier member to the upper barrier member" (emphasis added). As previously noted, the alleged linking members of Schultz and Cotton are both parallel to the median. Accordingly, for at least this additional reason, the Examiner's rejection of claim 2 should be reconsidered and withdrawn.

Regarding claim 3 individually, neither Schultz nor Cotton teach a device wherein "along the lower barrier member (24) each inboard member is separated from its associated outboard member by a gap of at least two feet" (emphasis added). Neither Schultz nor Cotton describes such a dimension, nor do they suggest the significance of such a dimension. As noted in Applicants' specification (page 7, paragraph beginning on line 9), wide gaps along the lower member between the inboard and outboard members allow the tires to simply slip

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over the member into a gap, thus preventing the tires from riding up the barrier. Accordingly, for at least this additional reason, the Examiner's rejection of claim 3 should be reconsidered and withdrawn.

Regarding claim 4 individually, neither Schultz nor Cotton teach a device "wherein a length of the upper member between associated inboard and outboard linking members is less than a length of the lower member between associated inboard and outboard linking members". In Schultz, the alleged upper and lower barrier members (16) are both the same length. Similarly, in Cotton, the alleged upper and lower barrier members (10, 17) are both the same length. Accordingly, for at least this additional reason, the Examiner's rejection of claim 4 should be reconsidered and withdrawn.

Regarding claim 8 individually, neither Schultz nor Cotton teach a device having elastic members "wherein each elastic member is coupled to the barrier by a nylon cord (40) which has a tensile rupture strength between 75 and 150 lbs (330 and 670N)". Schultz and Cotton do not discuss elastic members, much less their tensile rupture strength. Accordingly, for at least this additional reason, the Examiner's rejection of claim 8 should be reconsidered and withdrawn.

Regarding claim 11 individually, neither Schultz nor Cotton teach a device "characterized in that the upper and lower barrier members are substantially housed, prior to deployment, in an enclosure (80)". Neither Schultz nor Cotton discuss an enclosure, much less an enclosure having the features of claim 11. Accordingly, for at least this additional reason, the Examiner's rejection of claim 11 should be reconsidered and withdrawn.

Rejections under 35 USC §103

The Examiner rejected claims 13-16 under 35 U.S.C. §103(a) as being obvious and unpatentable over either U.S. Patent 5,993,104 or U.S. Patent 5,829,912, both to Marcotullio ("the Marcotullio patents") in view of either Schultz or Cotton as applied above. Claim 13 has been cancelled, rendering this rejection moot. Applicants respectfully traverse the rejection of claims 14-16 for the following reasons.

Neither Schultz, Cotton, nor the Marcotullio patents, alone or in combination, teach or suggest a device wherein “the linking members are angled relative to a median of the barrier when the device is in a deployed condition so that, upon engagement of a tire of the target vehicle with such a linking member, the tire will not be able to ride along such linking member to the upper member when the vehicle normally impacts the barrier”, as recited in Applicants’ amended claim 14 (emphasis added). To the contrary, Schultz, Cotton, and the Marcotullio patents each teach a barrier wherein the linking members are parallel to the median of the barrier when these devices are in the deployed condition (i.e., prior to vehicle impact). As can be seen in each of Schultz (e.g., FIG. 6), Cotton (e.g., FIG. 1), and the Marcotullio patents (e.g., FIGs. 1 and 4) each of the alleged linking members are all parallel to each other and to the median of the barrier that they form. There is no teaching or suggestion in these references that the linking members should be angled, much less that the use of angled linking members is effective so that, upon engagement of a tire of the target vehicle with such a linking member, the tire will not be able to ride along such linking member to the upper member when the vehicle normally impacts the barrier.

Because neither Schultz, Cotton, nor the Marcotullio patents, alone or in combination, teach or suggest a device wherein “the linking members are angled relative to a median of the barrier when the device is in a deployed condition so that, upon engagement of a tire of the target vehicle with such a linking member, the tire will not be able to ride along such linking member to the upper member when the vehicle normally impacts the barrier”, Applicants’ claim 14, and claims 15 and 16 that depend therefrom, are allowable over the Marcotullio patents in view of either Schultz or Cotton. Accordingly, for at least this reason, Applicants respectfully request that the Examiner’s rejection of claims 14-16 be reconsidered and withdrawn.

Conclusion

It is believed that the foregoing remarks are fully responsive to the Office Action and that claims 1-12 and 14-21 are in condition for allowance. Accordingly, reconsideration and allowance is requested.

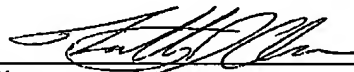
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If the Examiner has any questions or believes that a discussion with Applicants' attorney would expedite prosecution, the Examiner is invited and encouraged to contact the undersigned at the telephone number below.

The Examiner is hereby authorized to apply any credits or charge any deficiencies related to this Amendment and its associated three month extension of time to our Deposit Account No. 23-1665.

Respectfully submitted,
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Date: September 22, 2003
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